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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/641,378	08/13/2003	Binz DeWalch	D30473USC2	9613

28805 7590 02/27/2006

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EXAMINER

KIM, YOON YOUNG

ART UNIT PAPER NUMBER

1723

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1, 55-96, drawn to a vessel for processing substances, classified in class 422, subclass 101.
  - II. Claims 2-54 and 97, drawn to a method for processing substances in a container, classified in class 436, subclass 177.
2. The inventions are independent or distinct, each from the other because:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus of Invention I can be used to practice another and materially different process such as a process that does not involve biological substances.
3. This application contains claims directed to the following patentably distinct species: 1 and 55-71, Claims 1 and 72-89, and Claims 1 and 90-96. The species are independent or distinct because they are directed to related apparatuses. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j).

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Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

4. This application contains claims directed to the following patentably distinct species: Claims 2-7, Claims 8-54, and Claim 97. The species are independent or distinct because they are directed to related processes. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there are no generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable

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thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

5. Restriction for examination purposes is proper because these inventions are distinct for the reasons given above and also because (i) they have acquired a separate status in the art as shown by their different classification, (ii) the search required for the respective groups is not necessarily required by each of the other groups, and (iii) their subject matter is recognized as divergent.

6. A telephone call was made to Gordon Arnold on February 7, 2006 to request an oral election to the above restriction requirement, but did not result in an election being made.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yoon-Young Kim whose telephone number is (571) 272-2240. The examiner can normally be reached on 8:30-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on (571) 272-1151. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YK  
02/21/06

*John Kim*  
JOHN KIM  
*Primary* PATENT EXAMINER